

Message Text

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ORIGIN EB-07

INFO OCT-01 ARA-06 ISO-00 L-03 TRSE-00 CIAE-00 COME-00

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FM SECSTATE WASHDC

TO AMEMBASSY SAN JOSE

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E.O. 11652: N/A

TAGS:EWWT, CS, US

SUBJECT: SHIPPING: COSTA RICAN PARTIALITY IN COLLECTING
SAILING DUES

REF: (A) SAN JOSE 472 (B) STATE 33102 (C) SAN JOSE 1034

1. BASED ON INFORMATION PROVIDED BY EMBASSY MUNICIPAL
PORT CLEARANCE CHARGES ASSESSED .S. VESSELS, BUT NOT
COSTA RICAN VESSELS, ARE INCONSISTENT WITH AND CONTRARY
TO OBLIGATIONS ASSUMED UNDER US-CR FCN TREATY, PARTICULARLY
ARTICLE V THEREOF. TREATY IS SOLE BASIS FOR TREASURY
DEPARTMENT (U.S. CUSTOMS) DECISION EXEMPTING ANY CR
VESSELS CALLING AT U.S. PORTS FROM THE PAYMENT OF SPECIAL
TONNAGE TAX AND LIGHT MONEY. (DEPT., HOWEVER, UNAWARE
OF ANY THAT CALL AT THE PRESENT TIME.) IN ABSENCE OF
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GOCR ACTING TO EXEMPT U.S. VESSELS FROM LOCAL TONNAGE

CHARGES NOT ASSESSED CR FLAG VESSELS AND PROVIDING USG WITH ASSURANCES OF SUCH, TREASURY DEPARTMENT IS OBLIGATED UNDER U.S. LA' TO REVOKE CURRENT CR EXEMPTION THEREBY MAKING ANY CR FLAG VESSELS CALLING AT U.S. PORTS LIABLE FOR PAYMENT OF ADDITIONAL PER TON DUTIES TOTALING ONE DOLLAR OVER AND ABOVE REGULAR TONNAGE TAX ASSESSED ALL VESSELS (PURPOSE OF LA' IS TO DISCO'RAGE FOREIGN GOVERNMENTS FROM LEVYING DISCRIMINATINY DTIES OF TONNAGE OR IMPOSTS ON U.S. VESSELS IN THEIR PORTS).

2. TEXT OF DIPLOMATIC NOTE ON THIS PROBLEM FOR PRESENTA-TION TO FOREIGN MINISTRY FOLLOWS:

BEGIN TEXT:

A) THE EMBASSY OF THE UNITED STATES OF AMERICA WISHES TO RAISE WITH THE GOVERNMENT OF COSTA RICA A MARITIME SHIPPING PROBLEM HICH HAS ARISEN IN OUR TRADE WITH RESPECT TO THE PORT CLEARANCE TAXES OF THE MUNICIPALITIES OF LIMON AND PUNTARENAS.

B) THE UNITED STATES GOVERNMENT UNDERSTANDS THE GOVERN-MENT OF COSTA RICA GRANTS THE MUNICIPALITIES OF LIMON AND PUNTARENAS AUTHORITY TO LEVY A PORT CLEARANCE TONNAGE TAX ON ALL FOREIGN FLAG VESSELS, BUT EXEMPTS COSTA RICAN FLAG VESSELS THEREFROM. FURTHER, BY LEGISLATIVE DECREES NUMBERS 5836 OF OCTOBER 13, 1975, AND 5854 OF NOVEMBER 18, 1975, THE COSTA RICAN GOVERNMENT GRANTS THE MUNICIPALITIES OF LIMON AND PUNTARENAS AUTHORITY TO INCREASE THE PORT CLEARANCE TONNAGE TAXES ON FOREIGN FLAG VESSELS.

C) THE UNITED STATES GOVERNMENT IS OF THE OPINION THAT THE LEVYING OF THESE TAXES ON UNITED STATES FLAG VESSELS IS CONTRARY TO THE OBLIGATIONS THE COSTA RICAN GOVERN-MENT ASSUMED UNDER THE UNITED STATES-COSTA RICAN TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION OF JULY 10, 1851. ARTICLE V THEREOF STATES THAT "NO HIGHER NOR OTHER DUTIES OR PAYMENTS ON ACCOUNT OF TONNAGE OF LIGHT OR HARBOR DUES, OF PILOTAGE, OF SALVAGE IN CASE EITHER OF DAMAGE OR SHIPWRECK, OR ON ACCOUNT OF ANY OTHER LOCAL LIMITED OFFICIAL USE

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CHARGES, SHALL BE IMPOSED IN ANY OF THE PORTS OF THE REPUBLIC OF COSTA RICA ON VESSELS OF THE UNITED STATES, THAN THOSE PAYABLE IN THE SAME PORTS BY COSTA RICAN VESSELS; NOR IN ANY OF THE PORTS OF THE UNITED STATES, ON COSTA RICAN VESSELS, THAN SHALL BE PAYABLE IN THE SAME PORTS OF VESSELS OF THE UNITED STATES."

D) THE GOVERNMENT OF THE UNITED STATES OULD BE PLEASED

TO BE INFORMED OF THE VIEWS OF THE GOVERNMENT OF COSTA RICA ON THIS MATTER AND OF ANY ACTION TAKEN OR CONTEMPLATED BY THE COSTA RICAN GOVERNMENT TO EXEMPT UNITED STATES FLAG VESSELS CALLING AT LIMON AND PUNTARENAS FROM THE PAYMENT OF MUNICIPAL PORT CLEARANCE TAXES AS REQUIRED BY ARTICLE V OF THE AFOREMENTIONED TREATY.

END TEXT.

3. TEXT DOES NOT MENTION REMOVING COSTA RICA FROM SECTION 4.22 OF THE U.S. CUSTOMS REGULATIONS (19 CFR 4.22) AS A NATION WHOSE VESSELS ARE EXEMPT FROM THE PAYMENT OF ANY HIGHER TONNAGE DUTIES THAN ARE APPLICABLE TO VESSELS OF THE UNITED STATES AND ALSO FROM THE PAYMENT OF LIGHT MONEY. TO DO SO WOULD BE MEANINGLESS, SINCE AS FAR AS WE CAN DETERMINE, CR FLAG VESSELS DO NOT CALL AT U.S. PORTS AT PRESENT TIME, AT LEAST NOT ON A REGULAR BASIS. SHOULD GOCR RESPOND THAT IT ELECTS NOT TO EXEMPT U.S. FLAG VESSELS, THE TREASURY DEPARTMENT WILL HAVE NO ALTERNATIVE BUT TO REMOVE COSTA RICA FROM THE EXEMPTION LIST. (46 SC 141 AUTHORIZES THE EXTENSION OF THE EXEMPTION DESCRIBED ABOVE TO CR VESSELS ONLY SO LONG AS THE GOCF GRANTS RECIPROCAL PRIVILEGES TO U.S. FLAG VESSELS.) THE EXEMPTION COULD BE REINSTATED AT SUCH TIME THEREAFTER AS THE GOVERNMENT OF COSTA RICA MAY WISH TO PROVIDE THE USG WITH ASSURANCES THAT U.S. FLAG VESSELS ARE EXEMPTED FROM CHARGES DESCRIBED AND IN THE ABSENCE OF ANY EVIDENCE OF OTHER DISCRIMINATORY DUTIES BEING LEVIED AGAINST U.S. FLAG VESSELS. EMBASSY MAY RAISE PROBABILITY OF CR BEING DROPPED FROM LIST WITH GOCR OFFICIAL IF APPROPRIATE.

4. DEPARTMENT AGREES POINT RAISED PARA 6, REF A, THAT LIMITED OFFICIAL USE

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GOCR COULD REMOVE POINT OF CONTENTION SIMPLY BY ASSESSING SAME CHARGES ON ITS OWN VESSELS. SHOULD IT OPT FOR THIS SOLUTION, U.S. VESSELS ARE NO WORSE OFF THAN THEY ARE NOW. MOREOVER, SHOULD GOCR ACTION ALSO INCLUDE SOME FORM OF REBATING CHARGES TO CR VESSEL OWNERS, USG WOULD BE HARD-PRESSED TO MAKE A CASE. IT IS BECAUSE OF THE FOREGOING CONSIDERATION THAT NOTE HAS BEEN COINED IN TERMS OF SEEKING EXEMPTION FROM THE CHARGES FOR U.S. VESSELS. EMBASSY IS REQUESTED TO BEAR THIS IN MIND WHEN DELIVERING NOTE AND AVOID ANY SUGGESTION OR MENTION OF ASSESSING CR VESSELS ON THE SAME BASIS AS A MEANS OF RESOLVING ISSUE. GOCR MAY POSSIBLY FIND IT LESS ONEROUS DOMESTICALLY TO EXEMPT U.S. VESSELS CITING INTERNATIONAL TREATY OBLIGATION RATHER THAN ACT TO LEVY CHARGES ACROSS THE BOARD.

5. DEPARTMENT HAS NOTED COMMENTS ON NAMUCAR CONTAINED
PARA 6, REF A. PROBLEM AT HAND IS CONSIDERED SEPARATE
AND DISTINCT FROM THE MORE COMPLICATED NAMUCAR
SITUATION AND WE PREFER TO MAINTAIN THIS DISTINCTION.
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